

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

The rejection of claims 17, 20, 35, 39, 40, 43 and 45 under 35 U.S.C. §112, first paragraph, is respectfully traversed.

The Examiner asserts that support cannot be found for “automatically changing, without any user input, the user’s mode of communication.” To arrive at this conclusion, the Examiner asserts that page and line numbers previously supplied for support only provide for “the user interface adjusting output response to output from the physical detector.”

Apparently, the Examiner is using an overly restrictive definition of the word “mode”. As the attached definition from the Free Online Dictionary demonstrates, the word “mode” simply refers to a manner, way or method of doing or acting, a particular form, variety or manner (such as “a mode of expression”), a given condition of functioning, a status, etc.

To avoid this misunderstanding, the claims have now been amended so as to avoid use of the word “mode”. Instead, the claims now recite changing from a first communication manner to a second communication manner, etc. Although the specification does support changing from audio/visual to audio only (e.g., see the Abstract of the Disclosure and related portions of the disclosure), as is very clear from the specification and from the claims (e.g., see the dependent claims), Applicants’ change in communication mode can encompass a wide variety of different “manners” of communicating.

Especially as now amended, it is believed that those having skill in the relevant art will readily understand that the originally filed specification fully supports the claimed subject matter – and will find the claimed subject matter to be definite in intended meaning. Accordingly, the claims are now believed to be in full compliance with all requirements of 35 U.S.C. §112.

The rejection of claims 17-23, 25-29, 31-33, 35-37, 39, 40 and 42-46 under 35 U.S.C. §102 as allegedly anticipated by Filo '498 is respectfully traversed.

The Examiner is thanked for providing a helpful “Response to Arguments” section at pages 21-22 of the last Office Action. For reasons noted below, it is respectfully submitted that the Examiner’s interpretation of Filo and/or the rejected claims is in error.

The Examiner seems to find that a “phone call” is an “environmental or physical attribute” that impairs the ability of the user to use a particular communication mode. However, a skilled person would not include a phone call as an “environmental or physical attribute.”

An alternative possible interpretation is that the Examiner means the taking of a phone call is an “environmental or physical attribute.” However, this is also unlikely, as this “attribute” would not impair the ability of the user to use a particular communication mode and, once again, one that the skilled person would simply not consider as such.

To elaborate, this second possible interpretation would mean that when a Filo user (whose avatar is communicating in a virtual environmental, i.e.,

the first communication mode) receives a phone call, the phone call impairs the ability of the user to the extent that he would not continue operating via his avatar in the virtual environment. In the situation described in Filo at 11:3-8, it appears that the audio link to the call is disengaged only so that the other parties in the virtual environment may not overhear the user who is taking the call. The skilled person would understand from this description that the user does not want to be overheard due to the, e.g., private nature of the call. Thus, disengagement of the audio element arises due to the choice and preference of the user to keep the call and his conversation private – and not because the user's ability to communicate via his avatar is objectively impaired from continuing to communicate in the VCP environment. Alternatively, the user is unable to multi-task by speaking on the telephone and simultaneously communicate with the other parties in the virtual context, but again that is not because he is objectively impaired from doing so.

Thus, disengagement of the audio link in Filo is really only operation of a “mute” button that the user may hit (by the act of taking the call) when a telephone call comes through so that the user stops talking to one set of people (in VCP environment) and starts talking to someone else (over the telephone).

The Examiner's further assertion that “[t]aking the phone call automatically disengages the audio link” is apparently alleged to anticipate the claim 1 feature of “automatically changing, with any additional user input, the user's mode of communication to a second mode.” In response, it is

pointed out that the need for the user to take the telephone call contradicts this assertion.

While the claims, as previously stated, are patentably distinguished from Filo, the independent claims have now been further clarified by requiring that the user, after switching to the second communication mode or manner, is still communicating with the same party (or parties) with whom he was communicating in the first communication mode.

This makes clear that the user is communicating with the same party (or parties) whose communication has been interfered with by the environmental or physical attribute. This contrasts with the Filo method, where the user is directing his attention away from the VCP environment to engage with another party, where the communication with the first set of people and the communication with the second set are conducted using different communication modes.

Given such fundamental distinctions over Filo as have already been noted with respect to the independent claims, it is not believed necessary at this time to discuss the additional deficiencies of Filo with respect to other features of the rejected independent and/or dependent claims. Suffice it to note that, as a matter of law, it is impossible for a reference to anticipate any claim unless it teaches each and every feature of such claim.

The rejection of claims 24, 30 and 34 under 35 U.S.C. §103 as allegedly being made "obvious" based on Filo in view of Nitta '306 is also respectfully traversed.

Fundamental deficiencies of Filo have already been noted above with respect to parent claims. Nitta does not supply those deficiencies. Accordingly, it is not believed necessary at this time to discuss the further deficiencies of this allegedly “obvious” combination of references with respect to the additional features of these rejected claims.

The rejection of claims 38 and 41 under 35 U.S.C. §103 as allegedly being made “obvious” based on Filo in view of Sun ‘740 is also respectfully traversed.

Once again, fundamental deficiencies of Filo have already been noted with respect to independent parent claims. Sun does not supply those deficiencies. Accordingly, it is not believed necessary at this time to discuss the additional deficiencies of this allegedly “obvious” combination of references with respect to the additional features brought out by these rejected dependent claims.


AMENDMENT UNDER 37 C.F.R. §1.114(c)
Serial No. 10/088,346

BOWSKILL, *et al.*
Art Unit 2173

Accordingly, this entire application is now believed to be in allowable condition, and a formal notice to that effect is respectfully solicited.

Respectfully submitted,

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thefreedictionary.com

mode  (mōd)
n.

1.
 - a. A manner, way, or method of doing or acting: *modern modes of travel*. See Synonyms at [method](#).
 - b. A particular form, variety, or manner: *a mode of expression*.
 - c. A given condition of functioning; a status: *The spacecraft was in its recovery mode*.
2. The current or customary fashion or style. See Synonyms at [fashion](#).
3. *Music*
 - a. Any of certain fixed arrangements of the diatonic tones of an octave, as the major and minor scales of Western music.
 - b. A patterned arrangement, as the one characteristic of the music of classical Greece or the medieval Christian Church.
4. *Philosophy* The particular appearance, form, or manner in which an underlying substance, or a permanent aspect or attribute of it, is manifested.
5. *Logic*
 - a. See [modality](#).
 - b. The arrangement or order of the propositions in a syllogism according to both quality and quantity.
6. *Statistics* The value or item occurring most frequently in a series of observations or statistical data.
7. *Mathematics* The number or range of numbers in a set that occurs the most frequently.
8. *Geology* The mineral composition of a sample of igneous rock.
9. *Physics* Any of numerous patterns of wave motion or vibration.
10. *Grammar* Mood.

[Middle English, *tune*, from Latin *modus*, *manner*, *tune*. Sense 2, French, from Old French, *fashion*, *manner*, from Latin *modus*; see [med-](#) in Indo-European roots.]

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mode

Noun

1. a manner or way of doing, acting, or existing
2. a particular fashion or style
3. *Music* any of the various scales of notes within one octave
4. *Maths* the most frequently occurring of a range of values [Latin *modus* manner]

Collins Essential English Dictionary 2nd Edition 2006 © HarperCollins Publishers 2004, 2006

mode  (mōd)

The value that occurs most frequently in a data set. For example, in the set 125, 140, 172, 164, 140, 110, the mode is 140. Compare [arithmetic mean](#)[average](#)[median](#)

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Thesaurus Legend: Synonyms Related Words Antonyms

Noun 1. mode - how something is done or how it happens; "her dignified manner"; "his rapid manner of talking"; "their nomadic mode of existence"; "in the characteristic New York style"; "a lonely way of life"; "in an abrasive fashion"



fashion, manner, style, way

property - a basic or essential attribute shared by all members of a class; "a study of the physical properties of atomic particles"

artistic style, idiom - the style of a particular artist or school or movement; "an imaginative orchestral idiom"

drape - the manner in which fabric hangs or falls; "she adjusted the drape of her skirt"

fit - the manner in which something fits; "I admired the fit of her coat"

form - a particular mode in which something is manifested; "his resentment took the form of extreme hostility"

life style, life-style, lifestyle, modus vivendi - a manner of living that reflects the person's values and attitudes

setup - the way something is organized or arranged; "it takes time to learn the setup around here"

signature, touch - a distinguishing style; "this room needs a woman's touch"

wise - a way of doing or being; "in no wise"; "in this wise"

response - the manner in which an electrical or mechanical device responds to an input signal or a range of input signals

2. **mode** - a particular functioning condition or arrangement; "switched from keyboard to voice mode"

condition, status - a state at a particular time; "a condition (or state) of disrepair"; "the current status of the arms negotiations"

3. **mode** - a classification of propositions on the basis of whether they claim necessity or possibility or impossibility

modality

logical relation - a relation between propositions

4. **mode** - verb inflections that express how the action or state is conceived by the speaker

modality, mood

grammatical relation - a linguistic relation established by grammar

common mood, declarative, declarative mood, fact mood, indicative, indicative mood - a mood (grammatically unmarked) that represents the act or state as an objective fact

subjunctive, subjunctive mood - a mood that represents an act or state (not as a fact but) as contingent or possible

optative, optative mood - a mood (as in Greek or Sanskrit) that expresses a wish or hope; expressed in English by modal verbs

imperative, imperative form, imperative mood, jussive mood - a mood that expresses an intention to influence the listener's behavior

interrogative mood, interrogative - some linguists consider interrogative sentences to constitute a mood

5. **mode** - any of various fixed orders of the various diatonic notes within an octave

musical mode

diatonic scale - a scale with eight notes in an octave; all but two are separated by whole tones

church mode, ecclesiastical mode, Gregorian mode, medieval mode - any of a system of modes used in Gregorian chants up until 1600; derived historically from the Greek mode

Greek mode - any of the descending diatonic scales in the music of classical Greece

major diatonic scale, major scale - a diatonic scale with notes separated by whole tones except for the 3rd and 4th and 7th and 8th

minor diatonic scale, minor scale - a diatonic scale with notes separated by whole tones except for the 2nd and 3rd and 5th and 6th

6. **mode** - the most frequent value of a random variable

modal value

statistics - a branch of applied mathematics concerned with the collection and interpretation of quantitative data and the use of probability theory to estimate population parameters

average, norm - a statistic describing the location of a distribution; "it set the norm for American homes"

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mode

noun 1. METHOD, way, plan, course, system, form, state, process, condition, style, approach, quality, practice, fashion, technique, manner, procedure, custom, vein

noun 2. FASHION, style, trend, rage, vogue, look, craze

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Translations

 **mode** [məud] *n* → modo; [*of transport*] → medio;

(*COMPUT*) → modo, modalidad *f*

Collins Spanish Dictionary & Grammar 4th Edition 2006 © HarperCollins Publishers 1997, 2000, 2004, 2006

 **mode** [məud] *n* → mode *m* [*of transport*]; moyen *m*

Collins French Dictionary & Grammar 5th Edition 2007 © HarperCollins Publishers 1997, 2000, 2004, 2006, 2007


 **mode** [məud] *n* → Form *f*;

(*Comput, Tech*) → Betriebsart *f*;

mode of life → Lebensweise *f*;

mode of transport → Transportmittel *nt*

Collins German Dictionary & Grammar 5th Edition 2007 © HarperCollins Publishers 1997, 1999, 2004, 2006, 2007

 **mode** [məud] *n* → modo; [*of transport*] → mezzo;

(*COMPUT*) → modalità *f inv*

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